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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/872,659	06/10/97	NAGY	S 016199/1110

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EXAMINER

RABAGO, R

ART UNIT

PAPER NUMBER

1713

12

DATE MAILED:

10/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/872,659

Applicant(s)
Nagy et al.

Examiner
R. Rabago

Group/Art Unit
1713



☒ Responsive to communication(s) filed on Sep 17, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 22-35, 37-51, and 53-73 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 22-35, 37-51, and 53-73 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1713

DETAILED ACTION

1. Rejections under 35 USC 112(1) and under 35 USC 103(a) are withdrawn in view of amendment and argument.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 71-73, 22-35, 37-51, and 53-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reichle et al. 5,852,146.

The reference discloses a large number of species of catalyst for the polymerization of olefins which overlap with an equally large group of species claimed in the instant application (col. 1-3) and have exemplified 2 species (Examples 1-7). The claimed cocatalysts are also disclosed (col. 4). Specifically overlapping components of the specified compound include the heterocyclic group, the transition metal, the additional ligand groups, and the suggestion to include multiple heterocyclic groups. It would have been obvious to one of ordinary skill in the art to use any of the numerous disclosed alternative embodiments because the patentee has stated that they result in useful polymerization catalysts, with reasonable success expected.

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It is noted that the filing date of the Reichle reference predates that of the instant CIP application, and that the CIP parent application predates Reichle. Therefore, the instant claims are entitled to the filing date of the CIP parent application only with respect to subject matter which was disclosed in the parent. In traversal of a previously set forth rejection, applicants have stated on the record that the subject matter of the instant claims which was not claimed in the parent was also not disclosed in the parent case (pg. 10, 2nd paragraph of Paper No. 11, filed 9/17/99). Accordingly, Reichle qualifies as prior art for the subject matter of the instant claims which was not disclosed in the parent application. As none of the current claims are clearly limited to subject matter which was either fully supported by the parent disclosure or not suggested in Reichle, all of the claims are properly rejected as obvious over Reichle.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rabago whose telephone number is (703) 308-4347. The examiner can normally be reached from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are: (703) 305-5408 (official), (703) 305-3599 (official after final) and (703) 306-3429 (unofficial).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

RRabago *RR*
October 4, 1999

David Wu
DAVID W. WU
PRIMARY EXAMINER
GROUP 1500